



House of Representatives

File No. 539

General Assembly

February Session, 2004

(Reprint of File No. 162)

House Bill No. 5500
As Amended by House
Amendment Schedule "A"

Approved by the Legislative Commissioner
April 12, 2004

AN ACT CONCERNING COMPLIANCE WITH THE FEDERAL HELP AMERICA VOTE ACT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 9-323 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 Any elector or candidate who claims that he is aggrieved by any
4 ruling of any election official in connection with any election for
5 presidential electors and for a senator in Congress and for
6 representative in Congress or any of them, held in his town, or that
7 there was a mistake in the count of the votes cast at such election for
8 candidates for such electors, senator in Congress and representative in
9 Congress, or any of them, at any voting district in his town, or any
10 candidate for such an office who claims that he is aggrieved by a
11 violation of any provision of sections 9-355, 9-357 to 9-361, inclusive, as
12 amended, 9-364, 9-364a or 9-365 in the casting of absentee ballots at
13 such election, may bring his complaint to any judge of the Supreme
14 Court, in which he shall set out the claimed errors of such election
15 official, the claimed errors in the count or the claimed violations of said

16 sections. In any action brought pursuant to the provisions of this
17 section, the complainant shall send a copy of the complaint by first-
18 class mail, or deliver a copy of the complaint by hand, to the State
19 Elections Enforcement Commission. If such complaint is made prior to
20 such election, such judge shall proceed expeditiously to render
21 judgment on the complaint and shall cause notice of the hearing to be
22 given to the Secretary of the State and the State Elections Enforcement
23 Commission. If such complaint is made subsequent to the election, it
24 shall be brought within fourteen days of the election and such judge
25 shall forthwith order a hearing to be had upon such complaint, upon a
26 day not more than five nor less than three days from the making of
27 such order, and shall cause notice of not less than three nor more than
28 five days to be given to any candidate or candidates whose election
29 may be affected by the decision upon such hearing, to such election
30 official, to the Secretary of the State, to the State Elections Enforcement
31 Commission and to any other party or parties whom such judge deems
32 proper parties thereto, of the time and place for the hearing upon such
33 complaint. Such judge, with two other judges of the Supreme Court to
34 be designated by the Chief Court Administrator, shall, on the day fixed
35 for such hearing and without unnecessary delay, proceed to hear the
36 parties. If sufficient reason is shown, such judges may order any voting
37 machines to be unlocked or any ballot boxes to be opened and a
38 recount of the votes cast, including absentee ballots, to be made. Such
39 judges shall thereupon, in the case they, or any two of them, find any
40 error in the rulings of the election official, any mistake in the count of
41 such votes or any violation of said sections, certify the result of their
42 finding or decision, or the finding or decision of a majority of them, to
43 the Secretary of the State before the first Monday after the second
44 Wednesday in December. Such judges may order a new election or a
45 change in the existing election schedule, provided such order complies
46 with Section 302 of the Help America Vote Act, P.L. 107-252, as
47 amended from time to time. Such certificate of such judges, or a
48 majority of them, shall be final upon all questions relating to the
49 rulings of such election officials, to the correctness of such count and,
50 for the purposes of this section only, such claimed violations, and shall

51 operate to correct the returns of the moderators or presiding officers so
52 as to conform to such finding or decision.

53 Sec. 2. Section 88 of public act 03-6 of the June 30 special session is
54 repealed and the following is substituted in lieu thereof (*Effective from*
55 *passage*):

56 Immediately after the close of the polls, the moderator shall seal the
57 provisional ballot depository envelope and deliver such envelope to
58 the registrars of voters of the town. The registrars of voters shall
59 forthwith verify the information contained with each provisional
60 ballot. If the registrars of voters determine that the applicant is eligible
61 to vote, they shall note their decision on the outer envelope of the
62 ballot and open and count the provisional ballot in accordance with
63 the provisions of sections [55 to 61] 83 to 89, inclusive of [this act]
64 public act 03-6 of the June 30 special session* and procedures
65 prescribed by the Secretary of the State. If the registrars of voters are
66 unable to determine that the applicant is eligible to vote or determine
67 that the applicant is not eligible to vote, the applicant's provisional
68 ballot sealed envelope shall be marked "rejected", along with the
69 reason for such rejection, and signed by the registrars of voters. The
70 registrars of voters shall verify and count all provisional ballots in their
71 town not later than six days after the election or primary. The
72 registrars of voters shall forthwith prepare and sign in duplicate a
73 report showing the number of provisional ballots received from
74 electors, the number rejected and the number counted, and showing
75 the additional votes counted for each candidate for federal office on
76 the provisional ballots. The registrars of voters shall file one report
77 with the town clerk and shall seal one in the depository envelope with
78 the provisional ballots and file such depository envelope with the town
79 clerk. The depository envelope shall be preserved by the town clerk for
80 the period of time required to preserve counted absentee ballots for
81 federal elections. The head moderator shall forthwith file a corrected
82 return for federal offices with the town clerk and the Secretary
83 showing (1) the final votes after any recanvass, pursuant to sections 9-
84 311 to 9-311b, inclusive, the votes on provisional ballots and the totals,

85 and (2) the number of provisional ballots received from electors, the
86 number rejected and the number counted, as reported by the registrars
87 of voters.

88 Sec. 3. Subsection (a) of section 9-261 of the general statutes, as
89 amended by section 101 of public act 03-6 of the June 30 special
90 session, is repealed and the following is substituted in lieu thereof
91 (*Effective from passage*):

92 (a) In each primary, election or referendum, when an elector has
93 entered the polling place, the elector shall announce the elector's street
94 address, if any, and the elector's name to the checkers in a tone
95 sufficiently loud and clear as to enable all the election officials present
96 to hear the same. Each elector who registered to vote by mail for the
97 first time on or after January 1, 2003, and has a "mark" next to the
98 elector's name on the official registry list, as required by section [91] 90
99 of [this act] public act 03-6 of the June 30 special session, shall present
100 to the checkers, before the elector votes, either a current and valid
101 photo identification that shows the elector's name and address or a
102 copy of a current utility bill, bank statement, government check,
103 paycheck or other government document that shows the name and
104 address of the elector. Each other elector shall (1) present to the
105 checkers the elector's Social Security card or any other preprinted form
106 of identification which shows the elector's name and either the elector's
107 address, signature or photograph, or (2) on a form prescribed by the
108 Secretary of the State, write the elector's residential address and date of
109 birth, print the elector's name and sign a statement under penalty of
110 false statement that the elector is the elector whose name appears on
111 the official checklist. Such form shall clearly state the penalty of false
112 statement. A separate such form shall be used for each elector. If the
113 elector presents a preprinted form of identification under subdivision
114 (1) of this subsection, the checkers shall check the name of such elector
115 on the official checklist. If the elector completes the form under
116 subdivision (2) of this subsection, the assistant registrar of voters shall
117 examine the information on such form and either instruct the checkers
118 to check the name of such elector on the official checklist or notify the

119 elector that the form is incomplete or inaccurate.

120 Sec. 4. Section 9-7b of the general statutes, as amended by section 2
121 of public act 03-223 and sections 53 and 65 of public act 03-241, is
122 repealed and the following is substituted in lieu thereof (*Effective from*
123 *passage*):

124 (a) The State Elections Enforcement Commission shall have the
125 following duties and powers:

126 (1) To make investigations on its own initiative or with respect to
127 statements filed with the commission by the Secretary of the State or
128 any town clerk, or upon written complaint under oath by any
129 individual, with respect to alleged violations of any provision of the
130 general statutes relating to any election or referendum, any primary
131 held pursuant to section 9-423, as amended, 9-425 or 9-464 or any
132 primary held pursuant to a special act, and to hold hearings when the
133 commission deems necessary to investigate violations of any
134 provisions of the general statutes relating to any such election, primary
135 or referendum, and for the purpose of such hearings the commission
136 may administer oaths, examine witnesses and receive oral and
137 documentary evidence, and shall have the power to subpoena
138 witnesses under procedural rules the commission shall adopt, to
139 compel their attendance and to require the production for examination
140 of any books and papers which the commission deems relevant to any
141 matter under investigation or in question. In connection with its
142 investigation of any alleged violation of any provision of chapter 145,
143 or of any provision of section 9-359 or section 9-359a, the commission
144 shall also have the power to subpoena any municipal clerk and to
145 require the production for examination of any absentee ballot, inner
146 and outer envelope from which any such ballot has been removed,
147 depository envelope containing any such ballot or inner or outer
148 envelope as provided in sections 9-150a, as amended, and 9-150b and
149 any other record, form or document as provided in section 9-150b, in
150 connection with the election, primary or referendum to which the
151 investigation relates. In case of a refusal to comply with any subpoena

152 issued pursuant to this subsection or to testify with respect to any
153 matter upon which that person may be lawfully interrogated, the
154 superior court for the judicial district of Hartford, on application of the
155 commission, may issue an order requiring such person to comply with
156 such subpoena and to testify; failure to obey any such order of the
157 court may be punished by the court as a contempt thereof. In any
158 matter under investigation which concerns the operation or inspection
159 of or outcome recorded on any voting machine, the commission may
160 issue an order to the municipal clerk to impound such machine until
161 the investigation is completed;

162 (2) To levy a civil penalty not to exceed (A) two thousand dollars
163 per offense against any person the commission finds to be in violation
164 of any provision of chapter 145, part V of chapter 146, part I of chapter
165 147, chapter 148, section 9-12, as amended, subsection (a) of section 9-
166 17, section 9-19b, 9-19e, 9-19g, 9-19h, 9-19i, 9-20, 9-21, 9-23a, 9-23g, as
167 amended, 9-23h, as amended, 9-23j to 9-23o, inclusive, 9-26, 9-31a, 9-32,
168 9-35, as amended, 9-35b, 9-35c, 9-40a, 9-42, as amended, 9-43, 9-50a, 9-
169 56, 9-59, 9-168d, 9-170, 9-171, 9-172, 9-409, as amended, 9-410, as
170 amended, 9-412, as amended, 9-436, as amended, 9-436a, 9-453e to 9-
171 453h, inclusive, as amended, 9-453k, as amended, 9-453o, as amended,
172 [or] sections 1 to 3, inclusive, of [this act] public act 03-241 or sections
173 83 to 90, inclusive, of public act 03-6 of the June 30 special session, or
174 (B) two thousand dollars per offense or twice the amount of any
175 improper payment or contribution, whichever is greater, against any
176 person the commission finds to be in violation of any provision of
177 chapter 150. The commission may levy a civil penalty against any
178 person under subparagraph (A) or (B) of this subdivision only after
179 giving the person an opportunity to be heard at a hearing conducted in
180 accordance with sections 4-176e to 4-184, inclusive. In the case of
181 failure to pay any such penalty levied pursuant to this subsection
182 within thirty days of written notice sent by certified or registered mail
183 to such person, the superior court for the judicial district of Hartford,
184 on application of the commission, may issue an order requiring such
185 person to pay the penalty imposed and such court costs, state

186 marshal's fees and attorney's fees incurred by the commission as the
187 court may determine. Any civil penalties paid, collected or recovered
188 under subparagraph (B) of this subdivision for a violation of any
189 provision of chapter 150 applying to the office of the Treasurer shall be
190 deposited on a pro rata basis in any trust funds, as defined in section 3-
191 13c, affected by such violation;

192 (3) (A) To issue an order requiring any person the commission finds
193 to have received any contribution or payment which is prohibited by
194 any of the provisions of chapter 150, after an opportunity to be heard
195 at a hearing conducted in accordance with the provisions of sections 4-
196 176e to 4-184, inclusive, to return such contribution or payment to the
197 donor or payor, or to remit such contribution or payment to the state
198 for deposit in the General Fund, whichever is deemed necessary to
199 effectuate the purposes of chapter 150;

200 (B) To issue an order when the commission finds that an intentional
201 violation of any provision of chapter 150 has been committed, after an
202 opportunity to be heard at a hearing conducted in accordance with
203 sections 4-176e to 4-184, inclusive, which order may contain one or
204 more of the following sanctions: (i) Removal of a campaign treasurer,
205 deputy campaign treasurer or solicitor; (ii) prohibition on serving as a
206 campaign treasurer, deputy campaign treasurer or solicitor, for a
207 period not to exceed four years; and (iii) in the case of a party
208 committee or a political committee, suspension of all political
209 activities, including, but not limited to, the receipt of contributions and
210 the making of expenditures, provided the commission may not order
211 such a suspension unless the commission has previously ordered the
212 removal of the campaign treasurer and notifies the officers of the
213 committee that the commission is considering such suspension;

214 (C) To issue an order revoking any person's eligibility to be
215 appointed or serve as an election, primary or referendum official or
216 unofficial checker or in any capacity at the polls on the day of an
217 election, primary or referendum, when the commission finds such
218 person has intentionally violated any provision of the general statutes

219 relating to the conduct of an election, primary or referendum, after an
220 opportunity to be heard at a hearing conducted in accordance with
221 sections 4-176e to 4-184, inclusive;

222 (D) To issue an order to enforce the provisions of the Help America
223 Vote Act, P.L. 107-252, as amended from time to time, as the
224 commission deems appropriate;

225 (4) To inspect or audit at any reasonable time and upon reasonable
226 notice the accounts or records of any campaign treasurer or principal
227 campaign treasurer, as required by chapter 150 and to audit any such
228 election, primary or referendum held within the state; provided, (A) (i)
229 not later than two months preceding the day of an election at which a
230 candidate is seeking election, the commission shall complete any audit
231 it has initiated in the absence of a complaint that involves a committee
232 of the same candidate from a previous election, and (ii) during the
233 two-month period preceding the day of an election at which a
234 candidate is seeking election, the commission shall not initiate an audit
235 in the absence of a complaint that involves a committee of the same
236 candidate from a previous election, and (B) the commission shall not
237 audit any caucus, as defined in subdivision (1) of section 9-372, as
238 amended;

239 (5) To attempt to secure voluntary compliance, by informal methods
240 of conference, conciliation and persuasion, with any provision of
241 chapters 149 to 153, inclusive, or any other provision of the general
242 statutes relating to any such election, primary or referendum;

243 (6) To consult with the Secretary of the State, the Chief State's
244 Attorney or the Attorney General on any matter which the commission
245 deems appropriate;

246 (7) To refer to the Chief State's Attorney evidence bearing upon
247 violation of any provision of chapters 149 to 153, inclusive, or any
248 other provision of the general statutes pertaining to or relating to any
249 such election, primary or referendum;

250 (8) To refer to the Attorney General evidence for injunctive relief
251 and any other ancillary equitable relief in the circumstances of
252 subdivision (7) of this [section] subsection. Nothing in this subdivision
253 shall preclude a person who claims that he is aggrieved by a violation
254 of any provision of chapter 152 or any other provision of the general
255 statutes relating to referenda from pursuing injunctive and any other
256 ancillary equitable relief directly from the Superior Court by the filing
257 of a complaint;

258 (9) To refer to the Attorney General evidence pertaining to any
259 ruling which the commission finds to be in error made by election
260 officials in connection with any election, primary or referendum. Those
261 remedies and procedures available to parties claiming to be aggrieved
262 under the provisions of sections 9-323, as amended by this act, 9-324, 9-
263 328 and 9-329a, as amended, shall apply to any complaint brought by
264 the Attorney General as a result of the provisions of this subdivision;

265 (10) To consult with the United States Department of Justice and the
266 United States Attorney for Connecticut on any investigation pertaining
267 to a violation of this section, section 9-12, as amended, subsection (a) of
268 section 9-17 or section 9-19b, 9-19e, 9-19g, 9-19h, 9-19i, 9-20, 9-21, 9-23a,
269 9-23g, as amended, 9-23h, as amended, 9-23j to 9-23o, inclusive, 9-26, 9-
270 31a, 9-32, 9-35, as amended, 9-35b, 9-35c, 9-40a, 9-42, as amended, 9-43,
271 9-50a, 9-56 or 9-59 and to refer to said department and attorney
272 evidence bearing upon any such violation for prosecution under the
273 provisions of the National Voter Registration Act of 1993, P.L. 103-31,
274 as amended from time to time;

275 (11) To inspect reports filed with the Secretary of the State and with
276 town clerks pursuant to chapter 150 and refer to the Chief State's
277 Attorney evidence bearing upon any violation of law therein if such
278 violation was committed knowingly and wilfully;

279 (12) To intervene in any action brought pursuant to the provisions
280 of sections 9-323, as amended by this act, 9-324, 9-328 and 9-329a, as
281 amended, upon application to the court in which such action is

282 brought when in the opinion of the court it is necessary to preserve
283 evidence of possible criminal violation of the election laws;

284 (13) To adopt and publish regulations pursuant to chapter 54 to
285 carry out the provisions of section 9-7a, this section and chapter 150; to
286 issue upon request and publish advisory opinions in the Connecticut
287 Law Journal upon the requirements of chapter 150, and to make
288 recommendations to the General Assembly concerning suggested
289 revisions of the election laws;

290 (14) To the extent that the Elections Enforcement Commission is
291 involved in the investigation of alleged or suspected criminal
292 violations of any provision of the general statutes pertaining to or
293 relating to any such election, primary or referendum and is engaged in
294 such investigation for the purpose of presenting evidence to the Chief
295 State's Attorney, the Elections Enforcement Commission shall be
296 deemed a law enforcement agency for purposes of subdivision (3) of
297 subsection (b) of section 1-210, as amended, provided nothing in this
298 section shall be construed to exempt the Elections Enforcement
299 Commission in any other respect from the requirements of the
300 Freedom of Information Act, as defined in section 1-200;

301 (15) To enter into such contractual agreements as may be necessary
302 for the discharge of its duties, within the limits of its appropriated
303 funds and in accordance with established procedures; [and]

304 (16) To provide the Secretary of the State with notice and copies of
305 all decisions rendered by the commission in contested cases, advisory
306 opinions and declaratory judgments, at the time such decisions,
307 judgments and opinions are made or issued;

308 (17) To receive and determine complaints filed under the Help
309 America Vote Act, P.L. 107-252, as amended from time to time, by any
310 person who believes there is a violation of any provision of Title III of
311 P.L. 107-252, as amended. Any complaint filed under this subdivision
312 shall be in writing, notarized and signed and sworn by the person
313 filing the complaint. At the request of the complainant, there shall be a

314 hearing on the record, conducted in accordance with sections 4-167e to
315 4-184, inclusive. The commission shall make a final determination with
316 respect to a complaint prior to the expiration of the ninety-day period
317 beginning on the date the complaint is filed, unless the complainant
318 consents to a longer period for making such determination. If the
319 commission fails to meet the applicable deadline under this
320 subdivision with respect to a complaint, the commission shall resolve
321 the complaint within sixty days after the expiration of such ninety-day
322 period under an alternative dispute resolution procedure established
323 by the commission.

324 (b) In the case of a refusal to comply with an order of the
325 commission issued pursuant to subdivision (3) of subsection (a) of this
326 section, the superior court for the judicial district of Hartford, on
327 application of the commission, may issue a further order to comply.
328 Failure to obey such further order may be punished by the court as a
329 contempt thereof.

This act shall take effect as follows:	
Section 1	<i>from passage</i>
Sec. 2	<i>from passage</i>
Sec. 3	<i>from passage</i>
Sec. 4	<i>from passage</i>

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 05 \$	FY 06 \$
Secretary of the State	GF - None	None	None
Elect. Enforcement Com.	GF - None	None	None
Judicial Dept.	GF - None	None	None

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill provides technical changes to PA 03-6, the recent legislation passed by the General Assembly concerning the Help America Vote Act (HAVA). It also provides an expedited hearing procedure for the resolution of the HAVA complaints filed with State Elections Enforcement Commission (SEEC). These technical changes will have no fiscal impact to the Secretary of the State (SOTS) or the SEEC.

Any person may bring a complaint under current law when they are aggrieved by an election official's ruling or in the casting of an absentee ballot. It is uncertain if specifying a person's right to bring a complaint in statute would affect the caseload of the Superior Court. Any potential impact is anticipated to be minor, however, and could be accommodated without additional appropriations to the Judicial Department.

House "A" provides an expedited hearing procedure for the resolution of HAVA complaints and has no fiscal impact to the state.

OLR Bill Analysis

HB 5500 (as amended by House "A")*

AN ACT CONCERNING COMPLIANCE WITH THE FEDERAL HELP AMERICA VOTE ACT**SUMMARY:**

This bill gives the State Elections Enforcement Commission (SEEC) the authority to receive and determine complaints and issue orders to enforce the federal Help America Vote Act (HAVA).

It also permits the SEEC to impose a civil penalty of up to \$2,000 for each violation of the provisional ballot law established in PA 03-06, June Special Session.

Lastly, it requires any new election held in response to a court order to comply with HAVA's section on provisional voting and display of voting information. It also makes technical changes.

By law, any voter or candidate who claims that (1) he was aggrieved by an election official's ruling or in the casting of an absentee ballot or (2) votes were improperly counted during an election for federal office can file a complaint with a Supreme Court justice. This justice, plus two others designated by the chief court administrator, must review the claim. If a majority on this panel determines that the claim is valid, it may order a new election. HAVA requires election officials to permit a voter to cast a provisional ballot in an election for federal office if his name is not on the voter registry list for the polling place but he declares that he is eligible to vote. It also requires that certain voting information be posted at polling places.

*House Amendment "A" adds the SEEC enforcement provisions.

EFFECTIVE DATE: Upon passage

HAVA ENFORCEMENT

The bill gives SEEC authority to receive and determine complaints and issue orders to enforce HAVA. It may receive complaints about the federal law's provisions establishing voting system standards, provisional voting and voting information requirements, the computerized statewide voter registry list, and requirements for voters who register by mail. Complaints must be in writing, notarized, and signed and sworn by the complainant. He can request a hearing, conducted in accordance with the Uniform Administrative Procedure Act. The commission must issue a final decision within 90 days unless the complainant agrees to an extension. If it fails to meet the 90-day (or extended) deadline, it must resolve the complaint within another 60 days under an alternative dispute resolution procedure it establishes.

BACKGROUND

"Help America Vote Act"

On October 29, 2002, Congress enacted the "Help America Vote Act of 2002" (P. L. 107-252, 42 USC 15301 et seq.) as a mechanism to help states pay for voting system replacements, create the Election Assistance Commission, and set minimum election administration standards for jurisdictions with responsibility for administering federal elections.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Report

Yea 17 Nay 0